President.—The existence also cannot be disclosed.

Mr. K. T. Mathew.—Whether in the reign of the Ex-Highness any scheme was drawn up for Constitutional Reforms?

President.—There must be correspondence in which all these things should appear. Any official correspondence in which this is drawn up?

Mr. K. T. Mathew.—After drawing it up, is there anything?

President.—A little office experience will show that there is no connected file of Constitutional Reforms. You have simply to say "if any part is there, the file would show. There is no file relating to this matter at all."

Mr. K. T. Mathew.—No file at all?

President.—No office file.

Mr. K. T. Mathew.—Whether any scheme has been drawn up by the Ex-Highness?

President.—No official scheme.

The Draft Constitution.

447. **Mr. A. B. Salem.**—1. Will the Government be pleased to inform.—

(a) the date on which the Diwan of Cochin received from Mr. K. T. Mathew, Member for Kunnamkulam, a petition addressed to him, while seated in the Presidential Chair of this Council, containing the Draft for a Constitution for the better Government of Cochin;

(b) the number of them that have signed the same;

(c) the names, standing and status of the signatories to the communication or petition;

2. will the Government be pleased to place a copy of the same with the names of the signatories printed on it on the table;

3. (a) will the Diwan be pleased to state when the same was submitted by him for the consideration of His Highness the Maharaja of Cochin;

(b) if the same has been submitted for the consideration of His Highness, will the Diwan be pleased to place on the table His Highness' gracious commands on the same?

Mr. A. K. Vengu Ayyar.—(1), (2) and (3). The subject-matter under reference falls within the exemption stated in section 11 (m) of the Legislative Council Regulation and clause (a) Rule 7 (1) of the Council Rules, and is, therefore, outside the province of the Council.

Mr. A. B. Salem.—Sir, I appeal to the Chair. You have allowed the request, and in doing that I presume you have con-

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sidered Rule 7 (1), and if you have done that, Sir, this answer is an insult to the Council, and is no answer.

President.—That is one thing.

Mr. A. B. Salem.—Another point is that the statement is not only an insult to the Council; it is also an insult to the President. Next, it is said under Rule 11 the President may disallow any question.

Mr. S. F. Nunez.—Sir, on a point of order. A Member cannot make a speech now. He can put only a supplementary question.

Mr. A. B. Salem.—When I am in possession of the House, you cannot speak.

President.—You said "you".

Mr. A. B. Salem.—I beg your pardon for the use of that expression. The President may disallow any question, if it is in contravention of the Rules or Standing Orders, so that, if any of the Rules or Standing Orders have been against the question, this question should have been disallowed, and should not find a place in the question paper. The question was allowed by the President. That means my question was according to the Rules, the Regulation and the Standing Orders, and it will not be right for the answering officer of the Government to say that the question is one beyond the purview of the Council. The Government will have to answer or they must say "we decline to answer."

President.—Suppose he neglects these Rules and Standing Orders, and allows a question to be put, what is the remedy?

Mr. A. B. Salem.—The Government officer must refer it back to the Secretary saying that the question contravenes the Rules, etc., and that he must place the matter before the President, and get it reconsidered by the President. That is the only way. Before you bring it to the House, he had to send it back to the Secretary stating that the Rules do not allow the putting of that question.

President.—What is the objection in adopting that procedure here?

Mr. A. K. Vengu Ayyar.—There is no objection in adopting that procedure hereafter. In this particular case the question is clearly against the provisions of section 11 (m) of the Regulation read with Rule 7 (2).

President.—That may be. But he has not got the power, and he is not bound to point out to the President that the question is not admissible by virtue of certain provisions of the Council Regulation, Rules, etc.

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Mr. A. K. Vengu Ayyar.—The Government have that power. I should think so.

Mr. A. B. Salem.—I agree, Sir. The Government has power to say that a question contravenes the Rules. Is the Government and the President two, Sir? The Government is bound to answer. Otherwise why are we here?

President.—Now, you have launched us in a difficulty? There must be only one authority. Since the President has two authorities as President and Diwan, we are in a chaos.

Mr. A. B. Salem.—That is the reason I said "our President" and "our Council."

President.—What do you say, Mr. Achyuta Menon.?

Mr. K. Achyuta Menon.—Even if the President was wrong in allowing the question, the Government is not to sit in judgment upon the President.

Mr. A. B. Salem—That is what I say. Answering my question that it contravenes the Rules and Standing Orders is sitting in judgment upon the President.

Mr. Sheik Abdul Qadir Sahib Bahadur.—Can the Government point out the mistake, if the President commits a mistake? This comes to only pointing out the mistake, Sir. The Government is pointing out; that is all.

President.—The proper curse is, if the Government find that the President has improperly allowed a question, it has to point out the mistake and direct him to correct it. Supposing a court decides wrongly, that court itself can rectify the error. It is not the client or the pleader who is to set right the judgment.

Mr. A. B. Salem.—This is an unwarranted and unconstitutional decision.

President.—You should not use wrong language in these matters. But how to get through the position,? Under the Rules and the Regulation, the Council President alone has the power to decide whether a question, resolution or Bill is against a certain provision. Is it open to the Government to say that they are not going to answer the question, as it has been improperly admitted by the President?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The proper procedure is to get it corrected by the President and not to bring such mistake to the Council.

President.—The Government did not adopt that procedure. The Government did not ask the President to correct. The Government comes and says in open Council "Well, the President has done an improper thing. We are not going to answer the question." Mr. Salem is quite amenable to the Government making a reference to the President, and thus asking the

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President to reconsider his decision and set it right. He has no objection on that score. But his point is, independently of the President, the Government cannot say that the question has been improperly admitted.

Mr. A. B. Salem.—That is the exact point.

Diwan Bahadur Dr. V. Verghese.—Is there any authority to appeal over the President's decision, if the President declines to alter his ruling?

President.—The President's rulings on these matters are final. They cannot be subject to appeal.

Mr. Sheik Abdul Qadir Sahib Bahadur.—The Government cannot refuse to answer the question, if the President has allowed it.

President.—There is no power in the President to compel the Government to answer the question in Council. That Government is to be made to answer we are not considering now. Such a case has not arisen now. We are only on the point that the answer to a certain question is not given.

Mr. K. Achyuta Menon.—Saying that the question contravenes a section of the Council law is practically declining to answer.

President.—But the Government cannot question the President's decision. It is for the President to say that the question is outside the province. It is not for the Government to say in the answer that it is outside the province.

Mr. K. Achyuta Menon.—The Government simply gives the reason for declining to answer that question.

President.—The Government can only say "we decline to answer."

Mr. K. Achyuta Menon.—The Council cannot compel the Government to give the answer, if the Government said "we decline to answer."

President.—The President has already ruled that the question is in order.

Mr. K. Achyuta Menon.—The Government is to give in fairness the reason for not answering the question. The Government has given that.

President.—The President's decision is final. The Government should say "we decline to answer", and not question the decision of the President at all.

Dr. A. R. Menon.—The Government is not to sit in judgment upon the President.

Mr. K. Achyuta Menon.—If the Government says the President's ruling is wrong, it is sitting in judgment on the Pre-

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sident. It may be wrong or right. They say "in our view, we won't answer that question, because it is outside the purview of the Council law."

Dr. A. G. Menon.—As it is, it brings out that the President's ruling is wrong.

Mr. K. Achyuta Menon.—I do not find anything in the Rules making it obligatory on the part of the Government to answer.

Dr. A. R. Menon.—You are not expected to assign a reason for not answering.

Mr. S. F. Nunez.—Under Standing Order 11 questions, which have been disallowed, shall not be entered in the list of questions.

President.—That is another matter. The point is the President has wrongly allowed a question.

Mr. A. B. Salem.—I do not see the President has committed a mistake. As the Member for Anglo-Indians puts it, it would appear the President was not right in allowing this question.

Mr. K. Achyuta Menon.—I think the President is right. According to the decision of the President, it is right, though the Government in saying that the question is outside the province of the Council law may be wrong.

President.—In some cases the Government say that they decline to answer.

Mr. C. A. Ouseph.—Some Members say the President should not have allowed it. Some say the Government is wrong. Is it not a discussion and questioning the ruling of the President?

President.—What—questioning the ruling of the President? Some may say that the President's ruling is correct. The point is the Government have declined to answer the question, and they have given certain reasons.

Mr. C. A. Ouseph.—If they say "we decline to answer", they are perfectly right. They say now "you are wrong; so we don't answer." It is only an implication.

President.—You are entering on the discussion of the question.

Mr. A. B. Salem.—The Government can decline to answer.

President.—There is an end of the matter.

Mr. A. B. Salem.—But it is open to the President to compel the Government to give an answer to a question.

President.—That is too once a question.

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Mr. A. B. Salem.—It has been done. If they simply say "we decline to answer", there is an end of the matter. "On account of such and such reasons we decline to answer"—they cannot say that, because they are thereby questioning the ruling of the President.

President.—That is a very wide question. How far it lies within the power of the President to compel the Government to answer is another matter.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The President has not got the authority to compel the Government.

President.—There is this point. No doubt, you say it is for the President to consider the admissibility, and he has allowed it, and it is not open to the Government to say that the question ought not to have been put. What they should have done is to refer it back to the President and to draw his attention to these rules. These are the rules on the subject. Now, in the light of these, the question has not been disallowed. The President will reconsider and disallow a question, if there is sufficint reason for so doing.

Mr. A. B. Salem.—That is exactly my view.

Mr. C. Achyuta Menon.—He would have disallowed the question.

Mr. A. B. Salem.—We do not know what decision he would have come to.

Mr. K. Achyuta Menon.—In case the President thinks he is right, and the Government thinks his opinion is wrong, what is to be done? In this particular case, you are the Diwan as well as the President. According to the view of the non-officials, the question is admissible. The Diwan and others who constitute the Government say it is not admissible. What is to be done?

President.—Then, the only course left for the Government is to say "we decline to answer."

Dr. A. G. Menon.—If it is a non-official President, this answer would be a direct insult to the President.

President.—It is only a difference of opinion.

Dr. A. G. Menon.—Since the Diwan and the President are the same, we find this difficulty.

President.—The President on his part, *bona fide*, honestly comes to the conclusion that it is admissible. The Government cannot say that it is not admissible.

Mr. A. B. Salem.—All that must take place in the Chamber, not in the Council.

President.—No insult is intended.

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Dr. A. G. Menon.—It will be an insult, if it is a non-official President.

President.—The Government simply say that they decline to answer by reason of the Council law.

Mr. K. Achyuta Menon.—That is the point we are raising.

President.—Then my rulings are not right. So some may say "The President has not acted rightly in regard to this question." But the Government's position is "We have to admit his ruling, we bow to his ruling, but we decline to answer." If that position is adopted, can any objection be taken to it ? Is it open to the Government to refuse to answer a question, when the question is allowed by the President ? That will be the further question. I suppose there is nothing in the Council law about that.

Mr. C. A. Ouseph.—May I draw your attention to S. O. 12 where it is stated that a question shall be put and answered in such manner as the President may, in his discretion, determine. Rule 15 also lays down that a Member may decline to answer without notice. He may decline to answer absolutely a supplementary question. The same rule applies to every question.

President.—I may say one thing. In the Proceedings of the Madras Legislative Council, I have come across statements to the effect that, when questions were put, there were no answers. I have read like that. We often come across with such things. We do not find that the Member was compelled to answer.

Mr. O. R. Chummar.—You can expel the Government Members from the Council, if they refuse to obey the President. (*Laughter.*)

President.—How can I expel ? Under what law ?

Mr. O. R. Chummar.—Unruliness.

President.—In the ordinary course, I have adopted a procedure. Questions are allowed by the President, and after that, the Government on its side points out that such and such a question ought not to be allowed. We are working in two compartments. Here is the one side with the President and his Legislative Council Secretary and office, and the other side is there with the Diwan and his Secretariat. When there is objection for allowing a question, how can the President allow it ? You must take up the matter and refer it back again to the President. Such a procedure has been adopted by me before, and, of course, I should think that it is the right procedure.

Mr. A. B. Salem.—Sir, what I am saying is that my questions do not contravene any Regulation or any provision of law.

President.—That will be a matter for discussion.

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Mr. A. B. Salem.—That is for you to say. I asked only the date on which the Diwan of Cochin received the petition. The Government has not replied to that.

President.—Yes, the answer given here cannot be accepted in view of the discussion that we had. The only course for the Government decline to answer. That is the way in which it should be understood.

Mr. A. B. Salem.—But I cannot see what provision or Regulation I contravene in putting that question, and I appeal to you, Sir, to ask the Secretary to answer my question.

President.—The Secretary thought that it is the proper answer. If this answer is not sufficient, and if further information is wanted, he will have to take his own time; he may want notice.

Mr. A. B. Salem.—Then, with regard to the other question, " the names, standing and status of the signatories in the communication or petition. "

President.—Of course, everybody knows that. Why should you want the Government to say that ?

Mr. A. B. Salem.—Everybody knows that ! Why should the Government, then, decline to answer a question that all the world knows ? Are not the Government putting themselves into a false position ?

President.—Those details need not be discussed at present. The date of presentation, the names of Members and all there are not very material.

Mr. A. B. Salem.—In framing the question, I purposely avoided all constitutional issues. I never asked anything of that sort. I only asked if the Government will be pleased to place a copy on the table showing the date and names of Members. I never raised a single constitutional issue. I only asked for dates, and see your perfunctory answer. The answer is " section 11 (m)." What is " 11 (m) " ? The Cranganur Chief. No question regarding the Cranganur Chief is put. All that I want to point out is that it is not up-to-date.

President.—Experience will make them more fit.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Section 11 (m) was amended afterwards into " n ".

President.—What Mr. Salem says is that even these small points are not looked into. Anything more, Mr. Salem ?

Mr. A. B. Salem.—If you do not want to give it, I don't press for it.

448. Mr. K. T. Mathew.—Will the Government be pleased to state whether the Draft Constitution submitted by 28 out of 33 non-official Members of the Legislative Council has been submitted by the Diwan to the consideration of His High-

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